

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
BID PROTEST**

AMAZON WEB SERVICES, INC.,)	
)	
Plaintiff,)	
)	
v.)	No. 19-1796C
)	(Judge Patricia E. Campbell-Smith)
THE UNITED STATES,)	
)	
Defendant,)	
)	
and)	
)	
MICROSOFT CORPORATION,)	
)	
Intervenor-Defendant.)	

JOINT STATUS REPORT

Pursuant to the Court's order dated April 17, 2020 (ECF No. 203), the parties jointly and respectfully provide the following report concerning the status of proceedings on remand. On remand, the United States Department of Defense (DoD) has proceeded to reconsider aspects of the procurement challenged in this protest action, and continues to do so.

Specifically, on April 21, 2020, DoD issued Amendment 0007 to Solicitation No. HQ003418R0077, which, among other things, modified some of the language concerning Factor 5, Price Scenario 6. Subsequently, on April 28, 2020, DoD issued Amendment 0008 to the solicitation, answering questions about Amendment 0007 and further modifying some of the solicitation language. Amendment 0007 permitted offerors to submit revised proposals by May 5, 2020. Plaintiff, Amazon Web Services, Inc. (AWS), and Intervenor-Defendant, Microsoft Corporation (Microsoft), each submitted revised proposals prior to the deadline.

On May 4, 2020, AWS submitted a pre-award, agency-level protest to the contracting officer, seeking clarification regarding some of the terms of Amendments 0007 and 0008. On

May 14, 2020, DoD issued Amendment 0009 to the solicitation to clarify, modifying some of the language of the solicitation amendments, and permitting offerors to either submit revised proposals in light of the clarification to the solicitation language, or affirm that its May 5, 2020 proposals aligned with the clarification in Amendment 0009. Both AWS and Microsoft timely responded to Amendment 0009.

DoD continues to evaluate the offerors' revised proposals, and more time is required to complete this process. Also, throughout the time that this case has been remanded, DoD has proceeded to reexamine its decisions with regard to other aspects of the procurement. More time is required to complete this process.

Additionally, DoD now anticipates that another solicitation amendment will be necessary, and additional limited proposal revisions will be permitted. DoD anticipates that this solicitation amendment will be issued by June 22, 2020, and that proposal revisions will be due by no later than July 7, 2020. Thereafter, these revised proposals will be evaluated.

After evaluations are complete, the Source Selection Evaluation Board, Source Selection Advisory Council, and Source Selection Authority will perform their duties as prescribed by the solicitation, and a new award decision will be issued. At this point, DoD anticipates that it will be in a position to complete remand proceedings by August 17, 2020. Given the need for another solicitation amendment and the evaluation of new proposal revisions, however, it is possible that some additional time may be necessary. If and when such a need becomes apparent, the United States will move for an extension of the remand pursuant to Rule 52.2(c) of the Rules of the United States Court of Federal Claims.

s/ Kevin P. Mullen

Kevin P. Mullen
MORRISON & FOERSTER LLP
2000 Pennsylvania Ave., NW
Washington, DC 20006-1888
Telephone: 202.887.1500
Facsimile: 202.887.0763

*Attorney of Record for Plaintiff
Amazon Web Services, Inc.*

Of Counsel For Plaintiff:

J. Alex Ward
Daniel E. Chudd
Sandeep N. Nandivada
Caitlin A. Crujido
Alissandra D. Young
MORRISON & FOERSTER LLP
2000 Pennsylvania Ave., NW
Washington, DC 20006-1888

Andrew S. Tulumello
Daniel P. Chung
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, NW
Washington, D.C. 20036

Theodore J. Boutrous, Jr.
Richard J. Doren
Eric D. Vandeveld
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071-3197

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

ROBERT E. KIRSCHMAN, JR.
Director

s/ Patricia M. McCarthy
PATRICIA M. MCCARTHY
Assistant Director

s/ Anthony F. Schiavetti
ANTHONY F. SCHIAVETTI
RETA E. BEZAK
Trial Attorneys
U.S. Department of Justice
Civil Division
Commercial Litigation Branch
PO Box 480
Ben Franklin Station
Washington, D.C. 20044
Tel: (202) 305-7572
Fax: (202) 305-1571
anthony.f.schiavetti@usdoj.gov

Attorneys for Defendant

Of Counsel for Defendant:

MICHAEL G. ANDERSON
BENJAMIN M. DILIBERTO
Assistant General Counsel
Washington Headquarters Service &
Pentagon Force Protection Agency
Office of General Counsel
Department of Defense

TYLER J. MULLEN
CCPO Legal Advisor
Assistant General Counsel
Defense Information Systems Agency
Office of the General Counsel

s/ Robert S. Metzger

Robert S. Metzger (Counsel of Record)

Jeffery M. Chiow

Neil H. O'Donnell

Lucas T. Hanback

Stephen L. Bacon

Deborah N. Rodin

Cassidy Kim

Eleanor M. Ross

ROGERS JOSEPH O'DONNELL, P.C.

875 15th Street NW, Suite 725

Washington, DC 20005

Tel: (202) 777-8951

Fax: (202) 347-8429

Email: rmetzger@rjo.com

*Attorneys for Defendant-Intervenor
Microsoft Corp.*

Of Counsel for Defendant-Intervenor:

LATHAM & WATKINS LLP

Abid R. Qureshi

Roman Martinez

Anne W. Robinson

Dean W. Baxtresser

Genevieve Hoffman

Riley Keenan

Margaret Upshaw

555 Eleventh Street, N.W., Suite 100

Washington, D.C. 20004

(202) 637-2200 (Telephone)

(202) 637-2201 (Facsimile)

Dated: June 16, 2020